

Duxbury Clipper, Wednesday, April 17, 1996

Duxbury Planning

By TOM BROADRICK, AICP

Planning Boards were first established in the Commonwealth by Mass. General Law Chapter 41 in 1913. The Duxbury Planning Board was established March 7, 1925, so there is a lot of history, and therefore roots, in our concerns about "planning" in Duxbury. The first version of the Subdivision Control Law, known as MGL Chapter 41 Section 81A, became effective 1936. Duxbury adopted this state law Aug. 18, 1950. The current MGL enacted in 1953 now is known as MGL Chapter 41 Sections 81L through 81GG, a total of 22 sections. The purpose of the Subdivision Control Law is to provide access to lots in subdivisions.

Prior to 1975, the Commonwealth had a Zoning Enabling Act, MGL Chapter 40A, that gave towns the right to enact zoning bylaws. Duxbury first adopted zoning bylaws on March 4, 1944 which established lot frontage and lot area requirements:

1944, 20,000 sq. ft. of area and 100 ft. of frontage

1952, 30,000 sq. ft. of area and 150 ft. of frontage

1954, 40,000 sq. ft. of area and 200 ft. of frontage

In 1975 the Commonwealth adopted the "Zoning Act" as we know it today to make zoning conform to standard procedures throughout the state. This new law is known as MGL Chapter 40A, Sections 1-17. Its purpose is to lessen congestion in the ways; conserve health; secure safety from fire, flood, panic; provide adequate light and air; prevent overcrowding. These issues are more commonly found in the cities.

Duxbury also has a Comprehensive Plan which is a statement of how we want growth to be directed and in which direction we want growth to go. The town's first plan was completed in 1959; updated in 1969; again in 1973; and soon in 1996 the results of the Long Range/Strategic Plan questionnaire results will be incorporated into the plan.

If you have any questions regarding any planning issues, please call me at 934-1114.

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Under the Subdivision Control Law, planning boards have the authority to allow exceptions and waive certain requirements of local subdivision rules and regulations. This authority is found in Section 81M and 81R of MGL Ch. 41.

When a planning board waives the strict compliance of its rules and regulations, due regard is paid to the prospective character of different subdivisions and the amount of travel upon the ways proposed therein and adjustments are then made accordingly. Planning Boards can limit the lots which may be built upon or can waive access requirements depending on local zoning laws.

What does this mean for Duxbury? Maybe you have heard of "paper streets" or 81R subdivisions, both utilize the waiver provisions of MGL Ch 41. A paper street is simply a right of way laid out on a plan with no requirement for the physical construction of a road within that right of way. The intent is to comply with the minimum frontage requirement of the Zoning Bylaw while utilizing some other point of access, such as your neighbor's driveway. In this manner, where deemed appropriate by the planning board, development can be controlled while avoiding the construction of a roadway that may meet the minimum design requirements of the local rules and regulations, but is totally out of character, in the planning board's opinion, with surrounding development.

While there is no such thing as an "81R subdivision" the term has been applied in the past to denote what might be considered "estate lot development." In exchange for increased lot size, the planning board reduced its road construction requirements and limited the further division of the larger size lots. While this process worked well at the time of initial development, subsequent property owners are often ignorant of the limitations of further development and petition the Board for relief, thinking they have a lot on an approved roadway that could be further divided.

If you have any questions regarding the subdivision of land in Duxbury, please call me at 934-1114.